

2009 DRAFTING REQUEST

Senate Amendment (SA-SB337)

Received: **02/26/2010**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Courts - torts**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Gender violence as an intentional act

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 03/01/2010	csicilia 03/02/2010	jfrantze 03/02/2010	_____	cduerst 03/02/2010	cduerst 03/02/2010	

FE Sent For:

<END>

2009 DRAFTING REQUEST

Senate Amendment (SA-SB337)

Received: 02/26/2010

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Coggs (608) 266-2500**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Courts - torts**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Coggs@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given


Topic:

Gender violence as an intentional act

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley	1 cjs 3/2 10		3/2			

FE Sent For:

<END>

Hurley, Peggy

From: Rieselman, Brian
Sent: Friday, February 26, 2010 4:34 PM
To: Hurley, Peggy; 'Tony Gibart'
Cc: de Felice, David Patrick
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

Thanks everybody

From: Hurley, Peggy
Sent: Friday, February 26, 2010 4:28 PM
To: 'Tony Gibart'; Rieselman, Brian
Cc: de Felice, David Patrick
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

Great. I'll enter the requests and get the amendments out early next week. Have a good weekend, everyone!

P

From: Tony Gibart [mailto:tonyg@wcadv.org]
Sent: Friday, February 26, 2010 4:27 PM
To: Hurley, Peggy; Rieselman, Brian
Cc: de Felice, David Patrick
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

That works. Thanks!

From: Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]
Sent: Friday, February 26, 2010 4:23 PM
To: Rieselman, Brian
Cc: de Felice, David Patrick; Tony Gibart
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

Let's keep it simple (ha!), then, make a new amendment that says simply:

(8) A gender-based act under this section shall be deemed for all purposes to be an intentional act.

What do you think?

P

From: Rieselman, Brian
Sent: Friday, February 26, 2010 4:21 PM
To: Hurley, Peggy
Cc: de Felice, David Patrick; 'Tony Gibart'
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

Uh...I don't know. But I think it would seem unusual for us to make a motion on the floor to adopt aa 5 and then right after that offer and amendment to amend aa 5 ?

03/01/2010

From: Hurley, Peggy
Sent: Friday, February 26, 2010 4:17 PM
To: Rieselman, Brian
Cc: de Felice, David Patrick; 'Tony Gibart'
Subject: RE: amendment request : AB 480 and SB 337 (gender violence act)

On closer inspection, shouldn't this be an amendment to amendment 5 to AB 480 and an amendment to amendment 2 to SB 337? It seems as if this language should replace the (7) in those amendments. Agree?

From: Rieselman, Brian
Sent: Friday, February 26, 2010 4:08 PM
To: Hurley, Peggy
Cc: de Felice, David Patrick; 'Tony Gibart'
Subject: amendment request : AB 480 and SB 337 (gender violence act)

Hi Peggy,

Could we have simple amendments to AB 480, and SB 337, relating to creating a civil cause of action for acts of violence motivated by gender ?

We are hoping to receive the amendment prior to Thursday's Assembly floor session (next week).

Here is the language:

“(7) A gender-based act under this section shall be deemed for all purposes to be an intentional act and this section does not create a cause of action against any person except the individual who commits the act.”

Thanks, and hope you are doing well!

— Brian



2009 SENATE BILL 337

October 8, 2009 - Introduced by Senators COGGS, HANSEN and TAYLOR, cosponsored by Representatives BERCEAU, ROYS, BLACK, SINICKI, DEXTER, GRIGSBY, PASCH, TOLES and PARISI. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to amend* 814.04 (intro.); and *to create* 893.583 and 895.437 of the
2 statutes; **relating to:** creating a civil cause of action for acts of violence
3 motivated by gender.

Analysis by the Legislative Reference Bureau

This bill creates a civil cause of action for a person who suffers physical, emotional, or economic harm as a result of a gender-based act. Under the bill, a gender-based act is an act that is committed, at least in part, on the basis of the victim's gender or a physical intrusion that is sexual in nature and that the actor commits under coercive conditions.

Under the bill, a victim must commence a civil action against the actor within seven years after the gender-based act occurs or, if the victim is under the age of 18, within seven years after the victim's 18th birthday. A victim who prevails in a civil action for a gender-based act may recover damages for emotional distress, punitive damages, and investigation or litigation costs, including attorney fees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 814.04 (intro.) of the statutes, as affected by 2009 Wisconsin Act 20,
5 is amended to read:

SENATE BILL 337**SECTION 1**

1 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.195 (5m)
2 (b), 100.30 (5m), 106.50 (6) (i) and (6m) (a), 111.397 (2) (a), 115.80 (9), 281.36 (2) (b)
3 1., 767.553 (4) (d), 769.313, 802.05, 814.245, 895.035 (4), 895.437 (4), 895.443 (3),
4 895.444 (2), 895.445 (3), 895.446 (3), 895.506, 943.212 (2) (b), 943.245 (2) (d), 943.51
5 (2) (b), and 995.10 (3), when allowed costs shall be as follows:

6 **SECTION 2.** 893.583 of the statutes is created to read:

7 **893.583 Gender-based harm.** Notwithstanding ss. 893.16, 893.54, and
8 893.57, an action under s. 895.437 shall be commenced within 7 years after the cause
9 of action accrues or, if the victim is under the age of 18 at the time the cause of action
10 accrues, within 7 years of the victim's 18th birthday, or be barred.

11 **SECTION 3.** 895.437 of the statutes is created to read:

12 **895.437 Gender-based harm; action for.** (1) In this section:

13 (a) "Gender-based act" means either of the following:

- 14 1. An act that is committed, at least in part, on the basis of the victim's gender.
15 2. A physical intrusion or invasion of a sexual nature that the actor commits
16 under coercive conditions.

17 (b) "Victim" means a person against whom a gender-based act has been
18 committed.

19 (2) A victim has a cause of action for injunctive relief and for damages, as
20 provided in sub. (4), against the person who commits a gender-based act that results
21 in a physical injury, emotional distress, or damage to or loss of property to the victim.

22 (3) The burden of proof in a civil action under sub. (2) rests with the victim to
23 prove that the defendant committed a gender-based act and that the victim suffered
24 harm as a result of the act by a preponderance of the credible evidence.

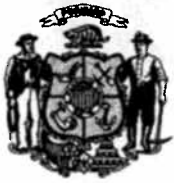
SENATE BILL 337

(4) If the plaintiff prevails in a civil action under sub. (2), he or she may recover special and general damages, including damages for emotional distress; punitive damages; and costs, including all reasonable attorney fees and other costs of the investigation and litigation that were reasonably incurred.

(5) A person may bring a civil action under sub. (2) regardless of whether there has been a criminal action related to the gender-based act and regardless of the outcome of any such criminal action. If there is a final judgment or decree rendered in favor of the state in any criminal proceeding against the defendant, a defendant may not deny the essential allegations of the criminal offense in any action under this section.

(6) This section does not limit the right of a person to recover from any parent or parents under s. 895.035.

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1695/1

EW
cjs

SENATE AMENDMENT,
TO 2009 SENATE BILL 337

by 3-3 ar

following

(16m)^B

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 3, line 12: after that line insert: ✓
- 3 (7) A gender-based act under this section shall be deemed for all purposes to
- 4 be an intentional act.”.

5 (END)